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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Comprehensive Review of Universal Service Fund	)	WC Docket No. 05-195
Management, Administration, and Oversight	)	
	)	
Federal State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Schools and Libraries Universal Service Support	)	CC Docket No. 02-6
Mechanism	)	
	)	
Rural Health Care Support Mechanism	)	WC Docket No. 02-60
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Changes to the Board of Directors for the National	)	CC Docket No. 97-21
Exchange Carrier Association, Inc.	)	

To: The Commission

**COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.**

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## SUMMARY

The Commission's implementation of universal service must be fundamentally reformed to focus more clearly and explicitly on the statute's articulated consumer-focused goals. This view reflects a broadening consensus among stakeholders and the public that the universal service system is currently broken and requires a fundamental re-evaluation in light of the new communications marketplace. Qwest applauds the Commission for initiating this proceeding and other related reform efforts to tackle these difficult and complex problems. Taken as a package, the reforms should securely anchor the Commission's implementation of universal service more directly to its statutory goals and reduce unnecessary burdens inherent in the current regime.

Responsibility for universal service programs should be placed with agencies best able to achieve the goals of the Act and advance the interests of all stakeholders, including beneficiaries, carriers, customers, and the American people. The Commission, as an independent regulator, is ill-equipped to administer the enormous consumer subsidy programs that universal service has become. Indeed, the evolution of the programs over the past 10 years and the ensuing management challenges make clear that the Commission – despite yeoman's efforts – is operating outside its core competency. Thus, over the long term, the Commission should work with Congress to shift responsibility for the programs to other state and federal agencies with more appropriate expertise. For example, the Schools and Libraries program may be more efficiently managed by the Department of Education. Such reforms would leave the Commission free to focus on its core mission – telecommunications policy.

Within the confines of the existing statutory regime, the Commission and USAC must strengthen their management capabilities across all programs. For example, the Commission should ensure that USAC has the resources and expertise it needs to administer subsidy and grant programs. The Commission's and USAC's respective responsibilities should be formalized and clarified to foster transparency and accountability. These goals can be accomplished either by developing a contract or memorandum of understanding between the Commission and USAC, or by codifying USAC's responsibilities and procedures in the Commission's rules, or some combination. In today's environment, universal service administration desperately needs clear lines of responsibility with expert staff working toward commonly identified objectives in a transparent and efficient organizational structure.

Steps also are necessary to improve USAC's day-to-day performance. The Commission should establish timelines for completion of USAC appeals, create USAC case managers to address problems more efficiently, and increase the overall transparency of USAC's operations. To identify areas for improvement and to provide a central clearinghouse for reform ideas, USAC should be required to establish an independent Ombudsman for all USF programs. Unlike the ombudsman for the Schools and Libraries program, this Ombudsman would answer to the Commission or the Inspector General and would review and assess USAC's functions and operations from a very broad perspective and serve as an intermediary between USAC and its stakeholders when problems develop. The Ombudsman's work may also draw attention to areas that need improvement on a more comprehensive, systemic basis.

The Commission must endeavor to craft meaningful performance measurements for the fund. Only through such measurements can government and the public assess the efficacy of

these programs. Developing performance measures will also refocus program spending on the statutory goals of universal service, while eliminating unnecessary or inefficient funding.

Changes in program management, including improvements in the application process, distribution of funds, and contribution procedure, will also advance these goals. The Commission also should consider moving more of the universal service funds to a formula-based disbursement process to enhance efficiency and predictability. Similarly, a multi-year process more closely aligned with recipients' procurement cycles would improve program performance. More generally, the Commission should convene a series of forums open to all stakeholders to work through the application process to eliminate unnecessary filings and streamline decision-making. All of these procedures should be clearly defined and available publicly to enhance transparency. Regarding customer certification and verification for Lifeline and Link Up, carriers should be permitted to rely on data provided by state and federal agencies that administer other assistance programs. Finally, the contribution factor should be stabilized, invoice adjustments explained, and merged entities' contributions treated more equitably.

Tightening the program's statutory moorings, articulating clear long-term goals, and improving its day-to-day management can only be effective if the stakeholders are ultimately held accountable for achieving results through meaningful audits and oversight. To that end, Qwest supports independent audits of program beneficiaries and contributors, so long as the audit program is designed to avoid imposing excessive costs on program participants. Such measures should include establishment of spending expectations in the Schools and Libraries program and rationalization of the state certification process in the High-Cost program. Taken together, the reforms outlined here – along with other reform efforts initiated by the Commission – will greatly enhance the integrity and effectiveness of the universal service programs, and in turn deliver more high-quality, affordable communications services for every consumer dollar devoted to the program.

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To: The Commission

**COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.**

Qwest Communications International Inc. (“Qwest”) submits the following comments in response to the Federal Communications Commission’s (“Commission”) broad inquiry into the management and administration of the Universal Service Fund (“USF”) and its oversight of the USF and the Universal Service Administrative Company (“USAC”), the USF Administrator.<sup>1</sup>

**I. INTRODUCTION: THE CASE FOR REFORM**

The statutory goals of universal service can be achieved *only* through wholesale reform based upon a clear set of consistent principles for the fund in the new highly competitive communications marketplace. That vision should focus on the statute’s goals:

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<sup>1</sup> *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight*, WC Docket No. 05-195, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 05-124 (rel. June 14, 2005) (“*USF Governance NPRM*” or “*NPRM*”).

- All Americans, including consumers in rural, high-cost, and insular areas, as well as low-income consumers, should have access to high-quality, affordable, and reasonably comparable services.<sup>2</sup>
- Schools, libraries, and rural health care providers should have access to advanced telecommunications services.<sup>3</sup>
- Support for these objectives should be predictable and sufficient, and funded by equitable and non-discriminatory contributions by all providers of telecommunications.<sup>4</sup>

There is a broadening consensus, however, that the current implementation of these universal service goals is misdirected and fundamental reform is urgently needed.

Universal service reform efforts should be undertaken consistent with certain basic tenets: (1) the universal service system should be narrowly tailored to its statutory goals; (2) the size of the fund should be stabilized, and reduced if possible; (3) the USF programs must be economically sustainable in a competitive marketplace; (4) responsibility for key aspects of the programs should be distributed to agencies with relevant expertise while USAC continues to assist in the administration as necessary; and (5) management and oversight practices must be tightened without imposing unnecessary costs on contributors or recipients. The end result of this holistic reform process will be a leaner, more focused universal service system with a clear set of goals and an efficient structure for achieving (and measuring) the consumer benefits at the foundation of the program.

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<sup>2</sup> 47 U.S.C. § 254.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

Perhaps most importantly, the Commission must develop focused, transparent goals for each program based on the statutory mandates and then craft and implement measurements of the programs' performance against those goals. The current structure simply lacks a clear vision of the goals for which funding is being provided. For example, the United States Government Accountability Office ("GAO") recently completed a review of the Commission's universal service program for schools and libraries ("E-Rate Program" or "Schools and Libraries Program") that identified severe weaknesses in the Commission's implementation of the E-Rate Program.<sup>5</sup> According to the GAO:

[The Commission] has not developed meaningful performance goals and measures for assessing and managing the program. As a result, there is no way to tell whether the program has resulted in the cost-effective deployment and use of advanced telecommunications services for schools and libraries.<sup>6</sup>

Support for schools and libraries is provided based on an elaborate matrix of eligibility criteria for a laundry list of components and services<sup>7</sup> without any overarching goals connecting these to actual capabilities for students, teachers, schools, or educational achievement.<sup>8</sup>

Similarly, the High-Cost program funds varying portions of incumbents' costs through seven separate support programs, although the Commission has never explained how this

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<sup>5</sup> See U.S. General Accountability Office, "Telecommunications – Greater Involvement Needed by FCC in the Management and Oversight of the E-Rate Program," Report to the Chairman, Committee on Energy and Commerce, House of Representatives, GAO-05-151, at 4-7 (February 2005) ("GAO Report"); Statement of Mark L. Goldstein, Director, Physical Infrastructure Issues, "Telecommunications – Concerns Regarding the Structure and FCC's Management of the E-Rate Program," Testimony Before the Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives, GAO-05-439T, at 2 (rel. Mar. 16, 2005) ("GAO Testimony").

<sup>6</sup> GAO Testimony at 2.

<sup>7</sup> 47 C.F.R. §§ 54.500 *et seq.*

<sup>8</sup> See, e.g., Office of Management and Budget, Program Assessment Rating Tool, Other Agencies, Federal Communications Commission, at 569 (2005) (available at [http://www.whitehouse.gov/omb/budget/fy2006/pdf/ap\\_cd\\_rom/part.pdf](http://www.whitehouse.gov/omb/budget/fy2006/pdf/ap_cd_rom/part.pdf)) (recommending development of a long-term outcome measure to address the purposes of funding and encouraging involvement of Department of Education).



patchwork of programs is tethered to the statutory goals – let alone ever quantitatively measured whether the funds were advancing those goals. Indeed, the Tenth Circuit’s remands of the Commission’s non-rural high-cost methodology have turned primarily on the Commission’s failure to define with precision the basic statutory terms “affordable” and “reasonably comparable.”<sup>9</sup> In sum, the current universal service system is sorely ill-conceived and poorly implemented to accomplish its mission.

The Universal Service Fund’s size must be stabilized, or reduced if possible. As evidenced above, it is not clear that the current level of funding is necessary to achieve the statute’s goals. And throwing more money at these problems is no substitute for solving them. Nonetheless, the size of the fund is growing steadily without any clear evidence of the program’s progress. For example, residential subscribership has begun to fall, after remaining constant for many years.<sup>10</sup> At the same time, the fund has ballooned to almost \$7 billion annually,<sup>11</sup> with claims before the Commission that additional support is needed.<sup>12</sup> This places increasing economic strains on consumers as they face ever-larger monthly phone bills as a result of explicit and implicit support mechanisms.<sup>13</sup> Given these facts, the proclaimed “success” of the USF in the eyes of certain beholders may only lie in the fact that the various programs spend ever-increasing amounts of money. Absent a meaningful set of objective and measurable metrics for the USF program, there is a significant possibility that this trend will only continue.

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<sup>9</sup> See *Qwest v. FCC*, 398 F.3d 1222, 1226-30 (10<sup>th</sup> Cir. 2005) (“*Qwest II*”).

<sup>10</sup> *Universal Service Monitoring Report*, CC Docket No. 98-202, at 6-4 (rel. Oct. 2004) (“*Universal Service Monitoring Report*”).

<sup>11</sup> See *Proposed Fourth Quarter 2005 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 05-2454 (WCB rel. Sept. 15, 2005) (indicating a quarterly fund amount of \$1.633 billion).

<sup>12</sup> See, e.g., Comments of Intercarrier Compensation Forum, CC Docket No. 01-92 (filed May 23, 2005) at 32 (calling for the creation of two new support mechanisms to replace access revenue).

<sup>13</sup> See Comments of Qwest Communications International Inc., CC Docket No. 96-45 (filed with the Joint Board Sept. 30, 2005) at 7-14 (“Qwest Joint Board Comments”).

Moreover, universal service funding has failed to make a meaningful transition to the competitive industry structure envisioned in the Telecommunications Act of 1996. High-Cost support amounts are determined based on costs for the last century's copper-based wireline networks (whether embedded or modeled).<sup>14</sup> Debates continue about funding for competing carriers.<sup>15</sup> Until policymakers decide which networks to support and how, universal service programs will continue to be an anachronistic monopoly-driven square peg trying to fit into the round hole of today's competitive marketplace.

Universal service has also suffered because the Commission and USAC have been asked to perform functions far removed from their core competencies. Any thoughtful reform effort must also include an assessment of which part of government is best positioned to administer these programs. The Commission and USAC have no expertise in running billion-dollar grant and subsidy programs, aiding health clinics and schools, or helping the economically disadvantaged. For example, the Department of Education is far better positioned to aid schools through technology grants than the Commission. Similarly, state and federal welfare agencies would better assess end-user eligibility for Lifeline and Link-Up than service providers.

These programmatic challenges are compounded by the shortcomings in management and oversight on the part of the Commission and USAC. In this regard, the GAO concluded:

[The Commission's] oversight mechanisms contain weaknesses that limit [the Commission's] management of the program and its ability to understand the scope of waste, fraud, and abuse within the program. For example, [the Commission's] rulemakings have often lacked specificity and have led to situations where important USAC administrative procedures have been deemed

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<sup>14</sup> See 47 C.F.R. § 54.309 (non-rural carriers); *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244 (2001).

<sup>15</sup> See, e.g., *Virginia Cellular v. FCC* (4<sup>th</sup> Cir. No. 05-1807, filed July 25, 2005) (challenging the Commission's competitive eligible telecommunications carrier ("ETC") qualification rules).

unenforceable by [the Commission]. There is also a significant backlog of E-rate appeals that adds uncertainty to the program and impacts beneficiaries.<sup>16</sup>

Similar concerns are reflected in the Inspector General's most recent Semi-annual Report to Congress.<sup>17</sup> The report notes several concerns regarding the USF including a lack of clarity regarding program rules, lack of timely and effective resolution of audit findings, weaknesses in program competitive procurement requirements, weaknesses in technology planning, and issues relating to discount calculation and payment.<sup>18</sup>

Despite USAC's and the Commission's good faith efforts to run the USF fairly and efficiently, Qwest's experiences both as a contributor and as a service provider reveal that the programs have suffered from significant administrative failures and snafus. Administrative processes are needlessly drawn out and bureaucratic, lines of responsibility are blurry at best, and the agency is underfunded to tackle these enormous tasks. The Commission and USAC have only just begun to tackle tremendous problems of waste, fraud, and abuse within these programs.<sup>19</sup>

At the same time, however, the Commission and USAC continue to place greater administrative burdens on carriers. For example, contributors are required to police their wholesale customers to ensure *their customers'* compliance with the contribution requirements.<sup>20</sup> Recipients of High-Cost funding are required to administer Lifeline programs, including the

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<sup>16</sup> GAO Testimony at 2.

<sup>17</sup> Federal Communications Commission, Office of the Inspector General, "Semiannual Report to Congress October 1, 2004 – March 31, 2005) (rel. April 28, 2005).

<sup>18</sup> *Id.*

<sup>19</sup> See, e.g., *Schools and Libraries Universal Service Support Mechanism*, Fifth Report and Order and Order, 19 FCC Rcd 15808 (2004) (addressing selected reforms in the schools and libraries program). See also, e.g., *Ronald R. Morrett, Jr.*, File No. EB-03-IH-0615, Notice of Debarment, DA 05-2349 (EB rel. Aug. 30, 2005) (one of many recent notices of disbarment for individuals and entities guilty of defrauding the fund).

<sup>20</sup> See FCC Form 499A (2005), Instructions at 18.

determination of customers' eligibility based on income and other criteria, even though telecommunications carriers have no expertise in administering government aid programs.

The instant *USF Governance NPRM* is an important step in the Commission's overall USF reform process, providing the opportunity to reform the management and administration of the programs based upon the basic principles outlined herein and consistent with the congressionally mandated vision of universal service. The Commission should consider these issues in parallel with other pending universal service reform proceedings. In that regard, Qwest recently set out its views for comprehensive reform of the High-Cost program consistent with the principles laid out herein.<sup>21</sup>

Qwest offers the following comments upon the specific proposals contained in the *USF Governance NPRM*.<sup>22</sup>

## **II. MANAGEMENT AND ADMINISTRATION OF THE USF**

### **A. Universal Service Fund Administration Should Be Transparent and More Efficient**

#### **1. The Commission should retain USAC as the Administrator but take steps to rationalize USF management and improve day-to-day operations**

The Commission's universal service programs currently use an organizational structure that is, to the best of our knowledge, unprecedented in government.<sup>23</sup> The USF is administered

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<sup>21</sup> Qwest argued that high-cost reforms should include: (1) specific steps to limit the size of the high-cost programs, such as a cap on these programs at 2004 levels and limitation of support to one connection per ETC per household; (2) assignment of responsibility to state commissions for determining the distribution of federal high-cost support to ETCs in the state, subject to Commission-established guidelines; (3) redistribution of non-rural high-cost support to states based on high-cost wire centers above a national benchmark set at 125% of the weighted average of residential and business local rates (plus state and federal subscriber line charges) in urban areas; (4) adoption of federal guidelines requiring federal high-cost support to be distributed to ETCs serving high-cost wire centers, using uniform metrics associated with the cost of providing service in those wire centers; and (5) elimination of unduly burdensome or unnecessary reporting requirements on ETCs. *See* Qwest Joint Board Comments at 7.

<sup>22</sup> The *USF Governance NPRM* contains a wide variety of subjects and questions. Qwest comments here only on those issues of particular concern to it.

by USAC, a private, not-for-profit corporation, with no contract or memorandum of understanding (“MOU”) defining its relationship with the Commission, and its government-mandated and government-collected program funds are maintained outside of the U.S. Treasury. Nevertheless, USAC is the appropriate entity to continue to serve as Administrator. There is no significant public interest benefit in seeking competitive bids to replace USAC with another entity. Such a process would take too long to set up and would lead to a lack of predictability in the administration of the USF. Moreover, USAC already has substantial experience with administering the USF and has displayed substantial improvement in its capabilities over time.

There is little doubt, however, that the Commission must take steps to rationalize and improve the overall management, transparency, and administration of the universal service support programs.<sup>24</sup> Indeed, the Commission’s existing rules and management mechanisms are inadequate and simply have led to delay and uncertainty. The Commission can improve this process by considering a contract or MOU with USAC, more effectively staffing both agencies to manage a multi-billion dollar subsidy program, and by taking steps to distribute responsibilities for these programs across the relevant parts of government. In addition, USAC and the Commission can take a number of tangible common sense management steps to enhance the program’s day-to-day performance.

**a. Rationalizing management of the universal service programs**

The Commission should take steps to delineate much more clearly the specific administrative role that USAC is to play. The Commission should make clear that all universal service policy decisions are to be made at the Commission, while USAC is responsible only for operational decisions. Establishing a contract or MOU between the Commission and USAC may

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<sup>23</sup> See *USF Governance NPRM* at ¶ 10; GAO Testimony, Summary (“What GAO Found”).

<sup>24</sup> *Id.*

be useful in this context. A contract or MOU would provide a mechanism by which the Commission could clearly delineate the role USAC is to play and make more concrete its procedures for overseeing USAC. As another alternative, the Commission could adopt more specific and detailed rules, dictating the scope of USAC's authority and how USAC is to operate.<sup>25</sup> Any of these options, or a combination, would provide additional certainty, transparency, and accountability regarding USAC's proper role in USF operations.

Those clear lines of responsibility and accountability are lacking under the current regime. USAC is theoretically prohibited from making USF policy decisions. Nevertheless, there have been circumstances in which USAC has established administrative procedures that the Commission has later deemed to be policy and thus unenforceable.<sup>26</sup> For example, a number of contributors sought review of USAC's unilateral decision to establish a new policy of denying downward revisions of the Form 499-A more than 12 months after its filing date. The Wireline Competition Bureau ultimately codified this USAC policy, but because the policy was not binding until 30 days after the rule was published in the Federal Register, the Bureau remanded the requests for review to USAC for processing under the previous standards.<sup>27</sup> In other instances, involving apparently routine administrative matters, USAC has directed parties to go to the Commission for relief, creating further delay and uncertainty.

The audit and appeals processes also suffer from management problems. For example, while audits have been conducted on E-Rate beneficiaries, the Commission has been slow to

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<sup>25</sup> The Commission's rules governing USAC are currently codified at 47 C.F.R. Part 54, subpart H. These rules outline USAC's functions at a general level, but do not provide the degree of clarity or specificity that is required to ensure that USAC's procedures are efficient and transparent.

<sup>26</sup> See GAO Report at 5-6.

<sup>27</sup> See *Federal-State Joint Board on Universal Service, et al.*, Order, 20 FCC Rcd 1012 (WCB 2004). Qwest disagrees with the Bureau's conclusion in this regard and has an application for review of this order pending before the Commission.

respond to problematic audit findings.<sup>28</sup> Further, the appeals process suffers from a significant backlog at the Commission due to a lack of Commission resources.<sup>29</sup> Each of these processes would be improved through a contract or MOU or more specific and detailed Commission rules about the way the two entities interact.

The Commission should also take steps to ensure that USAC has the in-house expertise to perform its role as program administrator. The USF is effectively an array of subsidy programs. The Commission, however, is not expert in administering subsidy programs and is subject to significant resource constraints. Therefore, the experience and expertise to administer such programs must reside largely with USAC. By ensuring that USAC has the expertise necessary to administer subsidy programs, the Commission can ensure that each entity is free to focus on its core competency – USAC on USF operations and administration and the Commission on telecommunications policy. At the same time, to enhance its oversight of USAC, the Commission itself may wish to hire at least some staff with experience managing or overseeing subsidy programs.

Over the longer term, the Commission should work with Congress toward migrating responsibility for the universal service programs to other federal agencies with experience and competencies in administering such programs. For example, the Department of Education administers grants involving dozens of subject areas, including telecommunications assistance and technology programs such as the Enhancing Education Through Technology (“EETT”) Formula Grants.<sup>30</sup> As such, it makes sense for the Department of Education to assume greater responsibility for the E-Rate Program. Similarly, the Low-Income and Rural Health Care funds

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<sup>28</sup> GAO Report at 6.

<sup>29</sup> *Id.*

<sup>30</sup> <http://www.ed.gov/GTEP/program2.nsf/vwNetHeadings?OpenView&Start=1&Count=50&Collapse=29>.

might be more appropriately administered by the Department of Health and Human Services. And the states should play a greater role in the High-Cost program.<sup>31</sup> By clearly defining the existing relationship between USAC and the Commission, staffing each appropriately, and beginning a longer term process of shifting programs to parts of government with relevant core competencies, the Commission will substantially enhance program performance in the short and long term.

**b. Improving USAC's day-to-day performance**

In addition to rationalizing the overall management of the USF, the Commission should take steps to improve USAC's day-to-day operational and administrative performance. For example, despite USAC's good faith efforts, Qwest often receives billing and disbursement statements that contain errors or lack sufficient data to allow it to reconcile the invoices against its own records. Qwest sometimes has difficulty promptly resolving these seemingly routine problems with USAC and must spend significant time and resources researching the situation, calling the USAC help desk, and waiting for a response. This can be particularly troublesome when such discrepancies trigger the Commission's "red light" rule regarding debt owed to the government, thereby delaying processing of routine applications and requests.<sup>32</sup>

Similar administrative problems have arisen when Qwest has had to appeal questions regarding service provider invoices. USAC has no definitive deadlines by which appeals must

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<sup>31</sup> See Qwest Joint Board Comments at 7, 14-16.

<sup>32</sup> 47 C.F.R. § 1.1910. Under the red light rule, the Commission will check to determine whether entities or individuals seeking licenses or other benefits from the Commission are delinquent in debt owed to the Commission. Anyone filing an application or seeking a benefit that is found to be delinquent in debt owed to the Commission will be notified of the delinquency and given 30 days to pay the debt in full or make other satisfactory arrangements. Failure to do so will result in dismissal of the application or other request for a benefit.



be resolved and, as a result, appeals can linger almost indefinitely. Indeed, in one instance Qwest had six appeals involving \$83,229.00 that remained pending at USAC for 23 months.<sup>33</sup>

The Commission should take four simple steps to mitigate or eliminate these types of problems in the future. First, there should be specific time periods within which help desk personnel must respond to service provider inquiries. Further, there should be a 90-day deadline for resolving appeals, or at least for reporting the status of pending appeals. For any appeals that are not resolved within 90 days, USAC should immediately forward the entire appeal record to the Commission for resolution.

Second, the Commission should require USAC to have a single case manager for each appeal filed. This would give service providers a single point of contact for dealing with issues related to each appeal. Today, carriers have to telephone the USAC help desk to check the status of an appeal. Each time, parties must deal with a different person who may have no specific knowledge regarding the matter and must research any case specific question. Again, days will often pass before a response is provided.

Third, the Commission should establish an Ombudsman within USAC who would answer directly to the Commission or to the Inspector General – not to USAC.<sup>34</sup> The Ombudsman would be positioned to review and understand USAC's functions and operations from a very broad perspective. The Ombudsman would serve as an intermediary between USAC and the service providers when problems develop. This would allow her to track and catalogue complaints to help identify trends and evaluate how USAC is performing generally and in certain categories of issues. This information would be periodically reported to the Commission and to

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<sup>33</sup> USAC denied a seventh appeal after it had been pending for 11 months. Qwest appealed USAC's denial to the Commission in August 2004 and is waiting for Commission action.

<sup>34</sup> Qwest recognizes that an Ombudsman has been designated for the Schools and Libraries program and that he reports to USAC. Qwest's proposal for an Ombudsman is much broader than this existing position.

the public (with sufficient protections for confidential information). The information would help the Commission develop meaningful metrics for assessing USAC's performance and focus on assisting USAC in improving that performance. It would also help USAC itself to focus on areas that need improvement on a more comprehensive, systemic basis.

Finally, the Commission should require USAC to take steps to bring additional transparency and certainty to its operations. For example, USAC should publish all of its operating policies and procedures on line; program participants cannot be expected to comply with policies or procedures established in unpublished decisions and should not be faulted in an audit for not having done so. Further, these practices and procedures should be located in one place (*i.e.*, the USAC Practice Handbook) on the USAC website, rather than being scattered throughout the site. The Handbook should also include a section that quickly highlights any changes or updates to the Handbook. This section would be similar to the existing more general "What's New" section of USAC's website.

## **2. The Commission should improve the timing and consistency of USAC's reports**

The Commission should modify its filing and reporting requirements to give carriers sufficient time to adjust to new contribution factors and should make USAC's own reports more consistent over time.<sup>35</sup> Carriers should have a minimum of 30 days to adjust to revised quarterly contribution factors. Section 54.709(a) requires USAC to submit to the Bureau, 60 days prior to the start of the quarter, financial and accounting data, including projected administrative expenses and projected program demand (*i.e.*, amount of moneys USAC expects to disburse in the upcoming quarter for each USF mechanism), and requires USAC to submit to the Bureau, 30

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<sup>35</sup> *USF Governance NPRM* at ¶ 17.

days prior to the start of each quarter, its estimate of the contributor base.<sup>36</sup> Based on these reports, the Bureau calculates the proposed quarterly contribution factor and announces the factor approximately fourteen days before the beginning of each quarter.<sup>37</sup>

Fourteen days, however, is not a reasonable amount of time for Qwest to complete all of the tasks necessary to implement a new universal service contribution factor. With each new contribution factor, Qwest must revise the data in its information technology systems, publish customer notices, and modify tariffs. Thus, the Commission should adjust the deadlines for USAC's reports to ensure that the Bureau can calculate and release the quarterly contribution factor at least 30 days before the beginning of each quarter.<sup>38</sup>

Further, Qwest believes that USAC should ensure that there is consistency in its reports. For example, the appendices in USAC's quarterly reports carry different identifying numbers from one quarter to the next, making it difficult for carriers to track and monitor the reports. At a minimum, substantive appendices in the quarterly reports should carry the same identifying number from one quarterly report to the next.

### **3. The Commission, not USAC, should set any interest or penalties for contributor delinquency in filing Form 499A**

It would be reasonable for the Commission to require contributors who are delinquent in filing Forms 499A to pay interest and penalties.<sup>39</sup> The amounts of any such interest and penalties, however, should be set by the Commission and codified in the Commission's rules. The Commission could authorize USAC to collect any interest and penalties provided for in the

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<sup>36</sup> 47 C.F.R. § 54.709(a)(3).

<sup>37</sup> *USF Governance NPRM* at ¶ 18. In Qwest's experience, the Bureau has not always met the 14-day target.

<sup>38</sup> The Commission also should ensure that forecasting is more accurate to stabilize the contribution factor from quarter to quarter. *See infra* text at section II.C.4.

<sup>39</sup> *USF Governance NPRM* at ¶ 19.

rules, but USAC should have no discretion for setting the amount or determining when interest and penalties should apply. Similarly, any penalties and interest for underpayment should be established in Commission rules, not by USAC.<sup>40</sup> Separating the penalty-setting function from the penalty-collecting functions in this way is consistent with Qwest's overall position that the Commission should clearly delineate USAC's functions and limit those functions to administration and operations alone.

In a related matter, Qwest objects to USAC's practice of immediately offsetting E-Rate disbursements to a service provider by any outstanding contributor invoice that remains unpaid at the end of the 22-day term. Given the very real possibility of error on the part of USAC, Qwest believes that carriers should be given notice and brief opportunity to remedy the situation before USAC offsets E-Rate distributions with outstanding contribution amounts.

**B. The Commission Should Implement Meaningful Performance Measures for all USF Programs**

Qwest applauds the Commission's willingness to address the vital question of performance measures.<sup>41</sup> Effective program management requires the implementation of meaningful performance measures. Clearly articulated goals and reliable performance data will allow the Commission and other stakeholders to assess the effectiveness of the USF programs and to determine whether and what changes are needed. Further, performance metrics for each fund should include specific goals for the speed of processing and disposal of matters before USAC. Aggregate data on USAC's speed of processing and disposal should be published periodically in order to help identify performance trends and evaluate how efficiently USAC is functioning generally.

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<sup>40</sup> To the extent interest is charged for overpayments, USAC should be required to pay interest for underpayments as well in appropriate circumstances as determined by Commission rules.

<sup>41</sup> *USF Governance NPRM* at ¶ 24.

**1. The Commission needs comprehensive and objective measures to evaluate the performance of the E-Rate Program**

The Commission has never crafted annual goals for the E-Rate program or held the program to any meaningful measure of success. At the program's inception, the Commission did nothing more than state that "it would 'work to improve the connections of classrooms, libraries, and rural health care facilities to the Internet by the end of [fiscal year] 1999.'"<sup>42</sup> For fiscal years 2000-2002 the Commission set a narrow goal of having specific percentages of public school classrooms connected to the Internet by the end of each year.<sup>43</sup> Even this half-hearted evaluation criterion, however, was abandoned in subsequent years.<sup>44</sup>

Even when the Commission did set annual goals, the data collected failed actually to measure the impact of E-Rate funds.<sup>45</sup> The Commission measured its performance in meeting its goal by utilizing nationwide survey data from the Department of Education's National Center for Education Statistics.<sup>46</sup> These data, however, include schools that did not receive E-Rate funds. As such, the data did not provide a measure of the impact of E-Rate funds. Moreover, these data did not address the degree to which E-Rate funds were themselves responsible for connectivity to the Internet. In short, the Commission has never articulated or measured any meaningful performance goals for the E-Rate Program. The American people have no assurance that the billions of dollars spent on this program have truly advanced the statutory goals of school and library connectivity.

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<sup>42</sup> GAO Report at 20.

<sup>43</sup> *Id.* at 20-21.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 21-23.

<sup>46</sup> *Id.* at 21.

**a. The U.S. Department of Education EETT Accountability Measures offer the Commission a useful starting point for developing E-Rate Program performance measures**

The Accountability Measures adopted by the U.S. Department of Education for the EETT Formula Grants are instructive to the Commission's efforts to develop meaningful E-Rate performance criteria.<sup>47</sup> The EETT Formula Grants are designed to assist state education agencies in improving student academic achievement through the use of technology. Eligibility for Formula Grants is restricted to school districts that have the highest number or percentage of children from families with an income below the poverty line established by the federal Director of the Office of Management and Budget and either (1) operate one or more schools identified for improvement under the No Child Left Behind Act of 2001, or (2) have a substantial need for assistance in acquiring and using technology.

The Accountability Measures for the EETT Formula Grants have a number of advantages over the Commission's prior imprecise practice of measuring the number of classrooms connected to the Internet.<sup>48</sup> For example, the Measures focus exclusively on targeted groups and the teachers serving those groups, establishing the goals of ensuring that all students and teachers in the target groups have access to and increase their use of technology as a tool to support meeting or exceeding state academic content standards. The Measures also establish specific Performance Benchmarks for each goal to be achieved by a date certain, establish required data collection methods, and schedules for data collection.

The Commission may wish to use these Accountability Measures as a starting point for developing its E-Rate Program performance measures. By focusing specifically on target populations of students and their teachers, and by measuring the specific increase of their access

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<sup>47</sup> *USF Governance NPRM* at ¶ 27.

<sup>48</sup> <http://www.ed.gov/about/reports/annual/2005plan/edlite-esea-educationaltech.html>.

to and use of technology in the support of specific academic goals, the Measures may offer the Commission a model for establishing performance measures.<sup>49</sup> This would distinguish the impact of E-Rate funds from other governmental and non-governmental programs that support services or facilities similar to the E-Rate Program as well as measuring the efficiency and effectiveness of the E-Rate Program.<sup>50</sup>

**b. The Commission’s performance measures should treat priority 1 and priority 2 services separately**

The Commission should establish separate goals and measures for priority 1 and priority 2 services in order to take into account the “evolving level of telecommunications services’ that includes advanced services,” as required by the Act.<sup>51</sup> Priority 2 services involve one-time infrastructure improvements associated with establishing inside connections. As such, requests for funding of such services should decrease over time as more and more schools and libraries establish the inside connections they need. Thus, by separating goals and measures for priority 1 and 2 services, the Commission should be able to track the expected decline in funding requests for priority 2 services and, over time, adjust the total funding cap for the E-Rate Program downward to account for this decrease.

**c. E-Rate performance measures should also include objective procedural timelines**

Mandatory timelines for the Commission’s and USAC’s processes are critical to the efficient functioning of the E-Rate Program.<sup>52</sup> To that end, E-Rate performance measures should also include specific procedural timelines to speed resolution of any payment issues or appeals.

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<sup>49</sup> *USF Governance NPRM* at ¶ 26.

<sup>50</sup> *Id.* at ¶ 28.

<sup>51</sup> *Id.* at ¶ 26 (citation omitted).

<sup>52</sup> *Id.* at ¶ 29.

As discussed above, the Commission should establish a 90-day deadline for USAC to resolve appeals. For any appeals that are not resolved within 90 days, USAC should immediately forward the entire appeal record to the Commission for resolution.

The Commission should also establish a 90-day payment deadline for service provider invoices. Today, some service provider invoices have been outstanding at USAC's Schools and Libraries Division ("SLD") since 2004. Delays of this nature should not continue. If the SLD does not act on a service provider invoice within 90 days, the invoice should be denied and the service provider notified why the invoice was denied. The 90-day period would also give the service provider the opportunity to reverse the discount on the customer's invoice.

## **2. Performance measures for the High-Cost program should reflect the fundamental purposes of the statute**

The present High-Cost system provides enormous amounts of support to carriers without any clear criteria for determining if the funding is serving the statute's and the Commission's goals. Indeed, what little evidence that exists suggests the most obvious of these goals are not being fulfilled: despite the enormous size of the High-Cost fund, subscribership recently has begun to fall, after years of stagnancy.<sup>53</sup> The Tenth Circuit has concluded that, at least as to High-Cost support for larger carriers, the Commission has failed to define the most basic statutory terms, "sufficient" and "reasonably comparable."<sup>54</sup> Although the Joint Board and the Commission are addressing High-Cost reform in a number of proceedings,<sup>55</sup> these proceedings seem to lack a cohesive framework that shapes the proposals and drives the process towards the

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<sup>53</sup> *Universal Service Monitoring Report* at 6-4.

<sup>54</sup> *Qwest II*, 398 F.3d at 1233-38.

<sup>55</sup> In addition to the present proceeding, the Commission has before it the Tenth Circuit's remand regarding non-rural carriers' High-Cost support, *Qwest II*, *supra*, and the Joint Board proceeding regarding high-cost support for rural carriers. See *Federal-State Joint Board on Universal Service Seeks Comment on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support*, CC Docket No. 96-45, Public Notice, FCC 05J-1 (rel. Aug. 17, 2005) ("*Proposals Public Notice*").



long-term, sustainable, and effective universal service program that America needs. Meaningful performance measures will provide much-needed focus and discipline in the High-Cost program.

As suggested in the *NPRM*, the statutory goals should provide the structure for performance measurements for the High-Cost program.<sup>56</sup> In particular, the Commission must ensure that it has adequately defined the statutory terms (including “sufficiency” and “reasonable comparability”) so that appropriate performance measures can be formulated. The achievement of reasonably comparable rates as between rural and urban areas should be a fundamental metric for the High-Cost program. As the Tenth Circuit has observed, reasonable comparability must be viewed in light of all the statutory principles,<sup>57</sup> including the principle of affordability.<sup>58</sup> In formulating this kind of a metric, the Commission must bear in mind that, in a competitive marketplace, it cannot expect carriers to cross-subsidize their own high-cost areas with revenues from higher rates in low-cost areas.<sup>59</sup> As Qwest’s own experience demonstrates, a carrier can lose lines rapidly to competition in a low-cost area.<sup>60</sup> As a result, the Commission’s metrics for the success of the program also should measure the extent to which support is made available to high-cost *areas*, without regard to the size or scope of the carrier that serves the area.

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<sup>56</sup> See *USF Governance NPRM* at ¶ 30.

<sup>57</sup> *Qwest II*, 398 F.3d at 1234. See also 47 U.S.C. § 254(b).

<sup>58</sup> To this end, Qwest has argued elsewhere that the Commission should include in the calculation of support an affordability benchmark based on household income and expenditures on telecommunications and other goods and services. See Qwest Joint Board Comments at 16-20.

<sup>59</sup> See *U.S. Telecom Ass’n v. FCC*, 359 F.3d 554, 573 (D.C. Cir. 2004) (“*USTA II*”), *cert. denied*, 125 S. Ct. 313, 316, 345 (2004).

<sup>60</sup> See Petition of Qwest Corp. for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area, WC Docket No. 04-223 (filed June 21, 2004); *FCC Grants Forbearance Relief in Omaha MSA*, News Release, WC Docket No. 04-223 (rel. Sept. 16, 2005).

Most important, however, the Commission should more narrowly focus support on the goal of maintaining and increasing subscribership.<sup>61</sup> As the *NPRM* suggests, the performance of the High-Cost support mechanisms should be judged primarily on the programs' ability to preserve and advance subscribership levels in high-cost areas.<sup>62</sup> To this end, the Commission and the states should more aggressively identify and address the barriers to subscribership, and target universal service funds to connect these consumers to the network.

**3. Performance metrics for the Low-Income program should similarly be tied to the statutory goals**

The *NPRM* suggests correctly that a key measure of the success of the Low-Income program should be subscribership rates among low-income consumers.<sup>63</sup> In contrast, the percentage of eligible consumers that receive low-income support is not a suitable criterion because it is, at best, a rough proxy for the statutory goal of increasing subscribership. The statutory goal of the program is to make support available to ensure that subscribership levels among low-income consumers are reasonably comparable; there is no necessary reason to believe that this goal will be achieved by increasing participation in the program for its own sake. The goal of the program is to increase subscribership among low-income consumers, and that is the metric against which it should be measured.

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<sup>61</sup> As Qwest has argued elsewhere, the Commission should limit support to a single connection per customer per ETC in order to limit support to that which is necessary to ensure universal connectivity. See Qwest Joint Board Comments at 13.

<sup>62</sup> *USF Governance NPRM* at ¶ 30.

<sup>63</sup> *Id.* As Qwest has argued elsewhere, the amount of available low-income support may need to increase to ensure subscribership levels remain constant as high-cost support is reduced to more appropriate levels. See Qwest Joint Board Comments at 27.

#### **4. The contribution process would benefit from performance metrics**

The *NPRM* also suggests correctly that performance metrics would improve the administration of the contribution process.<sup>64</sup> Specifically, the Commission should adopt performance metrics for the accuracy of the Administrator’s processing of contributors’ payments. Such metrics should examine the need for corrections or true-ups due to errors by the Administrator, and should specifically capture the number of carriers inaccurately placed on the Commission’s “red light” list each month as a result of Administrator errors.

#### **C. Program Management Can Be Improved for All Support Mechanisms**

While all of the support programs are being managed with good intentions, there are elements of each that could be structured better.

##### **1. The Commission should consider using a formula to distribute E-Rate funds**

Using a formula to distribute funds directly to schools and libraries could have significant advantages in keeping administrative costs down and in creating incentives for the schools and libraries to control or reduce costs.<sup>65</sup> Such a formula would allow for the distribution of resources directly to schools and libraries according to their size and allow funds to be used in a more flexible way, rather than requiring applications that identify in extensive detail the needed services and equipment and their cost.<sup>66</sup> As Chairman Martin suggested: “By using a formulaic approach to distribute support directly to schools, libraries, and rural healthcare providers, the Commission may be able to address the concerns raised by beneficiaries about the growing

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<sup>64</sup> *USF Governance NPRM* at ¶ 31.

<sup>65</sup> *Id.* at ¶ 33. Any such formulas must, of course, be developed in a manner consistent with the discount-oriented structure of Section 254(h).

<sup>66</sup> *Id.*

complexity of the application process while still ensuring that the programs' funds are used appropriately.”<sup>67</sup>

**2. Although this type of potential change is promising, there are a number of steps the Commission can take today to improve the management of each of the programs**

**a. The Commission should convene a series of open forums to improve the E-Rate application and bidding processes**

Qwest believes that the best way to simplify the E-Rate application and bidding processes is for all stakeholders (service providers, applicants, the Commission and USAC) to work together to develop a more sensible application process.<sup>68</sup> To advance this goal, the Commission should host a series of forums open to all stakeholders so that all interested parties can work together to develop a consensus menu of proposed changes to the process. The forums should produce a report of suggested revisions for the Commission after three or four months of work. Although many of the streamlining proposals advanced in the *NPRM* show promise, a series of forums open to all interested parties is best positioned to sort through the details of those reforms. Qwest would welcome the opportunity to participate with other stakeholders to work toward simpler application and bidding processes for the E-Rate Program.

**(i) *The Commission should permit flexibility in the application process***

The Commission should adopt a multi-year application process for priority 1 services and relax certain renewal application rules to give service providers and applicants greater flexibility to bring the funding application process in line with the applicants' procurement and contracting practices.<sup>69</sup> For instance, applicants should be permitted to extend a previous funding request

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<sup>67</sup> *Id.*, Separate Statement of Chairman Kevin J. Martin.

<sup>68</sup> *Id.* at ¶ 37.

<sup>69</sup> *Id.*

beyond the E-Rate fiscal year where a given contract does not expire until the next fiscal year. Similarly, there are times in which an applicant and a service provider have not completed contract renewals before the contract expiration date. The Commission should allow the parties the option of using a simplified contract renewal Form 471 for a three-to-six month period while the contract is being re-bid and renegotiated.

These proposals will help rationalize and streamline the application process by allowing the E-Rate funding procedures to more closely align with the schools' and libraries' actual procurement processes. Today, E-Rate funding follows a July-to-June single-year coverage period, while school districts do not typically follow this same period. For instance, Qwest has contracts with customers that run on a January to December cycle, which crosses two separate E-Rate funding application years. Further, school districts have no ability to modify a funding application whenever a contract amendment or modification is required under the state procurement rules. This needlessly places the applicant at risk for funding denial.

In addition, the E-Rate application process can be improved through adopting certain technology changes. For example, the Item 21 attachment to Form 471 should be made accessible to the service provider selected by the applicant. The information in Item 21 is critical to enable the service provider to review, validate, and certify the applicant's funding request. Currently, however, the service provider does not have direct access to Item 21 and must request the information from the applicant. Also, automatic email notifications sent to applicants when they are approaching program deadlines, such as deadlines for filing Form 486s or Form 471s or the last date for filing Form 472s and service provider invoices, would be beneficial. USAC could improve the efficiency of the process and reduce administrative burdens on smaller schools by proactively communicating with them and providing additional training.

***(ii) Stakeholders should work through Commission-sponsored open forums to reform the competitive bidding process and clarify eligible services***

Reform of the Commission's E-Rate application process and eligible service rules are best tackled in the open forums discussed above.<sup>70</sup> Through stakeholder cooperation, that process will yield a simpler, more streamlined process for the E-Rate Program. Nonetheless, with regard to the list of eligible services, Qwest believes that there needs to be both more flexibility and clarity in listing eligible services. The current listing process makes it difficult for service providers to offer bundled service packages, and USAC's product eligibility guidance can be confusing. Further, trying to get upfront approval for a bundled offering is difficult and, at times, frustrating.

***(iii) The Commission is already working on form changes to improve program performance and deter waste, fraud, and abuse***

Changes to Commission forms and certifications that are under consideration in other proceedings are sufficient to improve program performance and deter waste, fraud, and abuse.<sup>71</sup> The Bureau is already proposing revisions to Forms 472, 473, and 474 in order to combat waste, fraud, and abuse.<sup>72</sup> Among other things, the Bureau is proposing to revise both Form 472 and Form 473 to require service providers to affirm certifications against waste, fraud and abuse. Qwest provided detailed comments regarding these forms in that docket and hereby incorporates by reference its comments in that proceeding.<sup>73</sup>

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<sup>70</sup> *Id.* at ¶ 40.

<sup>71</sup> *Id.* at ¶¶ 41, 43.

<sup>72</sup> See *Wireline Competition Bureau Seeks Comment on Proposed Revisions to FCC Forms 472, 473, and 474*, CC Docket No. 02-6, Public Notice, 20 FCC Rcd 4172 (WCB 2005).

<sup>73</sup> *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Comments of Qwest Communications International Inc. (filed March 22, 2005).

**b. The Commission should improve the application and participation process for the High-Cost program**

There are a few specific steps the Commission can take to improve the application and participation process for the High-Cost fund.<sup>74</sup> The Commission should ensure that all rules, policies, and procedures affecting high-cost support filings are publicly available, such as on the Administrator's website. Currently, many USAC policies and procedures are not publicly available, and filers frequently learn of requirements only after the fact, when filings are rejected or adjusted.<sup>75</sup> The filing process could be streamlined by ensuring that all relevant policies and procedures regarding filing requirements are available to filers.<sup>76</sup> In addition, the Commission and the Administrator must ensure that the information that is made available is current and up to date.<sup>77</sup> For the Local Switching Support program, Section 54.301 of the Commission's Rules and the Form LSSa (and its instructions) should be updated to reflect the simplification of the Commission's Part 32 Rules.<sup>78</sup> It also would be helpful to relate reporting of figures between the

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<sup>74</sup> *USF Governance NPRM* at ¶¶ 45-46.

<sup>75</sup> See also text *supra* at section II.A.1.b.

<sup>76</sup> See also *id. supra* (advocating the publication of all USAC operating policies and procedures online).

<sup>77</sup> For example, the instructions to the Form LSSa (for Local Switching Support) continue to be identified on USAC's website as instructions for 2002 until well into 2005.

<sup>78</sup> For example, line 290 of the Form's instructions refers to Account 3400, which has been eliminated for Class A carriers. Similarly, for Class A carriers, the new definition of account 2682 includes costs formerly captured in account 3420. The simplification of Part 32 rules took place in a series of Commission decisions. *Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 1*, CC Docket No. 99-253, *Report and Order*, 15 FCC Rcd 8690 (2000) (the Phase 1 decision addressed accounting and reporting reform measures that could be implemented immediately without affecting the information needed by the Commission and state commissions to meet their responsibilities and included, for example, elimination of the requirement to file an expense matrix regarding disaggregated financial data and elimination of the reclassification requirement for certain property held for future use); *2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2; Amendments to the Uniform System of Accounts for Interconnection; Jurisdictional Separations Reform and Referral to the Federal-State Joint Board; Local Competition and Broadband Reporting*, CC Docket Nos. 00-199, 97-212, 80-286, 99-301, *Report and Order in CC Docket Nos. 00-199, 97-212, and 80-286; Further Notice of Proposed Rulemaking in CC Docket Nos. 00-199, 99-301, and 80-286*, 16 FCC Rcd 19911 (2001) (“Phase 2 Order”) (the Phase 2

Part 32 ledger and the Form.<sup>79</sup> Taken together, these administrative changes will greatly enhance the speed and efficiency of the program.

**c. The Low-Income support programs would benefit from structural changes**

The Low-Income support programs would benefit from structural changes that shift responsibilities to organizations better able to meet the program's goals. However the Commission should not tamper with existing administrative processes that currently function effectively.<sup>80</sup>

The Commission should take this opportunity to modify the rules to provide that ETCs should fulfill their certification and verification requirements based on data provided by state and federal agencies that administer other assistance programs. These agencies will have access to information about income in addition to program participation, allowing the current eligibility criteria to be maintained. A significant administrative burden currently imposed on ETCs is the

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decision implemented four major accounting and reporting reforms, including substantially consolidating and streamlining Class A accounting requirements; relaxing certain aspects of the Commission's affiliate transaction rules; significantly reducing the cost of regulatory compliance with the cost allocation rules for mid-sized carriers; and reducing the ARMIS reporting requirements for both large and mid-sized local exchange carriers); *2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2*, CC Docket No. 00-199, *Order on Reconsideration*, 17 FCC Rcd 4766 (2002) (the reconsideration decision reinstated Account 3400 for Class B Carriers; clarified that mid-sized carriers are not required to file certain ARMIS reports; and extended the effective date of the changes to the Part 32 chart of accounts made in the *Phase 2 Order*). *See also Federal-State Joint Conference on Accounting Issue; 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase II; Jurisdictional Separations Reform and Referral to the Federal-State Joint Board; Local Competition and Broadband Reporting*, WC Docket No. 02-269, CC Docket Nos. 00-199, 80-286, 99-301, *Report and Order*, 19 FCC Rcd 11732 (2004) (reinstated certain accounts eliminated in the *Phase 2 Order* and denying requests to add new Part 32 accounts).

<sup>79</sup> Currently, some figures that must be reported as credits on the ledger (negative value), per Part 32, must be reported on the Form LSSa with a positive value. An example is Account 4340, which is reported as a credit on the ledger, but must be reported as a positive value on the Form LSSa.

<sup>80</sup> *USF Governance NPRM* at ¶ 55.



obligation to certify and verify consumers' eligibility to participate in the programs.<sup>81</sup> Carriers are obligated to certify that new Lifeline and Link-Up customers meet the eligibility criteria, and also must verify on an ongoing basis that subscribers remain eligible to participate in the programs.<sup>82</sup> The certification and verification requirements have required ETCs to deal with sensitive information outside their areas of expertise (such as confirming customers' participation in other public assistance programs), but particularly since the Commission adopted eligibility criteria based on income level alone,<sup>83</sup> the certification and verification rules have required ETCs to obtain very sensitive financial information from subscribers and potential subscribers, and have imposed a substantial burden on ETCs. Other government agencies have the expertise and ability to provide this certification and verification data.

State support of the verification of Lifeline customers' eligibility is already working well in some states. For example, the State of Nebraska emails Qwest a computer file every two weeks containing the name, address, social security number, and other identifying data for individuals newly qualified for Lifeline under the state's eligibility standards (including effective date of eligibility).<sup>84</sup> Qwest then automatically adds the Lifeline (and Link Up, if applicable) credit to the customers' accounts. The state sends similar files identifying customers who no longer qualify and thus should be removed from the program. Similarly, in Montana, individuals who qualify for Lifeline under Montana's rules by virtue of their participation in state assistance programs automatically receive a letter from the Montana Department of Public Health and Human Services informing them of the availability of Lifeline support, and enclosing an

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<sup>81</sup> 47 C.F.R. § 54.410.

<sup>82</sup> *Id.*

<sup>83</sup> *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302 (2004).

<sup>84</sup> Qwest sends the state back a list of customers that Qwest was unable to enroll based on the information provided so that the state can perform further follow-up if necessary.

application to send to the customer's local telephone service provider. State agencies are well-positioned to confirm individuals' eligibility and facilitate enrollment in the program, and can serve these functions more efficiently and effectively than the customer's ETC.

Consistent with the broad goal of assigning universal service responsibilities to entities with relevant core competencies,<sup>85</sup> and in connection with its consideration of the "filing and advertising burdens on companies" that provide Lifeline and Link-Up,<sup>86</sup> the Commission also should reconsider the low-income outreach obligations currently imposed on ETCs. The current rules require ETCs to make significant efforts to advertise the availability of low-income support and make other outreach efforts to low-income consumers.<sup>87</sup> The rules do not permit reimbursements for carriers' outreach efforts,<sup>88</sup> and Qwest has struggled to find cost-effective media for reaching low-income consumers. A more effective way of reaching potential program participants is through state and federal agencies that administer other low-income assistance programs. These agencies interface daily with individuals who qualify for Lifeline, and thus are a more direct and effective channel to the target audience. Consolidating Lifeline and Link-Up marketing through state and federal social service agencies also will ensure that a more consistent message about the program is conveyed to the public than under the present system, which relies on each ETC in an area to market its own Low-Income programs in its own way. ETCs should be required to provide all relevant information about Low-Income universal service support programs to relevant state and federal agencies, and the Commission should work with those agencies to ensure that Lifeline and Link-Up are marketed effectively.

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<sup>85</sup> See text *supra* at Introduction at 5-6 and section II.A.1.a.

<sup>86</sup> *USF Governance NPRM* at ¶ 55.

<sup>87</sup> 47 C.F.R. §§ 54.405(b), 54.411(d). See also, e.g., *Qwest Corporation, Compliance with the Commission's Rules and Regulations Governing Advertising the Availability of Lifeline and Link-Up*, File No. EB-03-TC-126, Order and Consent Decree, 19 FCC Rcd 22533 (EB 2004).

<sup>88</sup> See 47 C.F.R. §§ 54.407, 54.413.

The Commission should eschew any substantial changes to FCC Form 497, which ETCs file to support their reimbursement for providing low-income support. The present form works well, and ETCs such as Qwest have expended substantial resources on information technology to compile and report the required information in the present format. Any initiative to change the form would have to justify any improvements against the costs to carriers of modifying their systems to support a revised form.

The Commission also should retain the existing quarterly reporting requirement and continue to allow carriers to report monthly if the carrier desires to do so. The quarterly filing requires individual reporting of three-months' data. Qwest currently files the form monthly, and encourages the Commission to continue to allow monthly filings. For this reason, there is no utility to permitting less frequent reporting.

Although monthly reporting data does not show churn activity within a given month, it is Qwest's experience that, over time, add and drop activity within a given month tends to equal out. Thus, monthly data provides more than sufficient information to ensure accurate reimbursement to carriers providing low-income support, and the Commission or USAC should not seek data relating to churn within a particular month.

**d. The Commission should adopt changes to the Rural Health Care Support program management and application process**

The Rural Health Care Program will benefit from a number of changes to the program management and application process.<sup>89</sup> First, a streamlined, multi-year application process will significantly enhance the Rural Health Care fund's performance.<sup>90</sup> A multi-year application process, if properly structured, could eliminate the administrative burden inherent in the current

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<sup>89</sup> *USF Governance NPRM* at ¶¶ 58-59.

<sup>90</sup> *Id.* at ¶ 58.

annual application process, since most of the funding in this support mechanism is for transport services for which, in rural areas, prices generally remain relatively static. The multi-year process should be crafted, however, so as not to violate the competitive bidding aspect that is a successful and fundamental principle of the current program.

Some administrative changes would also be helpful. The Commission should ensure that post-commitment changes to support amounts are provided to service providers in a more timely fashion, such as by email, so that the correct amount is credited to the customer account. The Commission and USAC also should provide a mechanism in the Rural Health Care program for providers easily and quickly to change the Service Provider Invoice Number (“SPIN”) on applications. Large companies such as Qwest often have multiple operating companies with unique SPINs, frequently required by affiliate accounting rules. Customers may use an incorrect SPIN on an application, and should be able to change the SPIN without difficulty or delay if such an error is identified. This process has been streamlined in the Schools and Libraries program, and such reform should be implemented in the Rural Health Care program as well. Finally, although the changes described above would be helpful, changes to Forms 465 and 466 are not necessary and will only add new burdens and complexity to the process.

### **3. The Commission should take steps to make the USF disbursement process more transparent and certain**

As noted above regarding the performance of the Administrator, the fund disbursement process should be more transparent and certain.<sup>91</sup> The Administrator’s rules and procedures should be made available to all program participants. Disbursement adjustments should be accompanied by thorough explanations, so that carriers are not required to follow up with the Help Desk regarding each adjustment. Appeals regarding disbursements should be managed

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<sup>91</sup> See text *supra* at section II.A.1.b.

more effectively, with an assigned case manager, and oversight of an Ombudsman to help ensure efficiency and accuracy.<sup>92</sup>

For the Low-Income program, USAC's projection process should be revised to reduce the likelihood of "negative disbursement amounts."<sup>93</sup> Nonetheless, Qwest disputes the *NPRM*'s characterization of true-up amounts as "in effect, an interest-free loan to the carrier."<sup>94</sup> The projections of Low-Income support are performed by USAC, not the carrier. Thus, carriers have no control over whether or when negative disbursements occur. The Commission also seeks comment on whether it should simplify or streamline the four-level discount arrangement for the Lifeline program.<sup>95</sup> In this regard, Qwest simply observes that carriers have made substantial investments in systems and procedures to support the existing system, and changes should not be made absent a substantial justification of benefit that would exceed the costs to ETCs to implement the necessary changes.

Regarding the Rural Health Care program, the disbursement process is generally adequate under the current statutory requirements. Ultimately, greater efficiency could be achieved by allowing USAC to distribute support directly to rural health care providers.<sup>96</sup>

#### **4. The Commission can also take steps to improve the USF contribution process**

The USF's contribution process would be improved by stabilizing the contribution factor, providing explanations for invoice adjustments, and more equitably addressing the contribution

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<sup>92</sup> *Id.*

<sup>93</sup> *USF Governance NPRM* at ¶ 62. "Negative disbursement' amounts can occur when USAC conducts a true-up between a company's projected support amount and the actual support claimed, or when a company revises its previous support claims." *Id.*

<sup>94</sup> *Id.* (footnote omitted).

<sup>95</sup> *Id.* at ¶ 63.

<sup>96</sup> Any such changes must, of course, be developed in a manner consistent with the discount-oriented structure of Section 254(h).

obligations of merging companies. The Commission should modify the process to stabilize the quarterly contribution factor.<sup>97</sup> The sometimes significant changes from one quarter to the next lead to customer confusion and anger. To address this problem, the Commission and the Administrator need to determine a more accurate and consistent means of forecasting funding requirements. This process must include greater accuracy in forecasting the collection base. Greater stability in the forecasts of the funding requirements and collection base will lead to a more stable assessment rate. As noted above, the Commission and the Bureau should strive to make the contribution factor available sooner, so that carriers can make necessary billing changes.<sup>98</sup>

The vagaries of the current forecasting process manifest themselves in wider than necessary fluctuations in the contribution factor under the existing revenue-based contribution methodology. Greater accuracy will be necessary, however, under any alternative contribution methodology as well. For example, under a numbers- or connections-based contribution methodology, consumers would continue to experience fluctuating contribution amounts unless the revenue and disbursement estimates are handled more accurately and consistently.

The contribution process also could be substantially improved if the Administrator provided explanatory information on billing statements for invoice adjustments. Every entry on the statement should include an explanation, such as by cross-reference to a schedule of supporting information, or some other reference, such as a form/filing date combination, to identify the source of the adjustment. Today, it is often impossible for contributors to determine the cause of invoice adjustments without multiple telephone calls to USAC. Such adjustments are simply labeled “adjustment” or “credit” and include no explanation of their source or

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<sup>97</sup> *USF Governance NPRM* at ¶ 65.

<sup>98</sup> See text *supra* at section II.A.2.

justification. In addition, clear processes must be established to handle disputed invoices. As noted above, Qwest favors timelines for resolution, the assignment of a case manager as a single point of contact, and the creation of an Ombudsman position to ensure adequate dispute resolution.<sup>99</sup>

Finally, the Commission should ensure that contributions are assessed more equitably from entities that merge during a given year. Under the present system, USAC bills the successor corporation based on both companies' revenues, ignoring the non-surviving corporation's earlier contributions. The corporation ultimately is provided a refund for the non-surviving entities' contributions, but only after a substantial delay. In addition, the true-up is calculated for all four quarters of the year based on the highest prevailing contribution factor during *any* quarter in the contribution year, resulting in greater contribution liability for the successor corporation solely as a result of the merger. There is no justification for this inequitable treatment of entities that engage in merger activity. Further, the delay in true-ups has a negative impact on carriers' cash flow positions. Such true-ups should be performed in the next quarter, or the non-surviving entity's contributions should be credited to the successor corporation immediately upon submission to USAC of appropriate merger agreements.

#### **5. The Commission should establish periodic review of program management**

Consistent with the Commission's suggestion, periodic reviews of administration and management of the universal service programs would be beneficial.<sup>100</sup> The present review has been far too long in coming, and fund participants should be able to count on this type of thorough-going review at reasonable intervals. Regular reviews, combined with meaningful

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<sup>99</sup> See text *supra* section II.A.1.b.

<sup>100</sup> *USF Governance NPRM* at ¶ 66.

performance metrics, will allow the Commission to create and maintain a far more effective universal service program and management structure.

### **III. OVERSIGHT OF THE USF**

#### **A. Independent Beneficiary and Contributor Audits Are Appropriate Provided They Are Narrowly Tailored to Avoid Imposing Undue Administrative Costs and Burdens**

Audits can be a powerful tool for the Commission to ensure program integrity and to detect and deter waste, fraud, and abuse.<sup>101</sup> Audits may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules applicable during a particular funding year, and audits can reveal instances in which universal service funds were improperly disbursed or used in a manner inconsistent with the statute or the Commission's rules. At the same time, the Commission should be sensitive to not imposing excessive or unnecessary costs and burdens on program participants.

With regard to audit results, each service provider should receive a copy of the results of its audit. In addition, USAC should publish an annual report providing anonymous, aggregated data on audit results. Such a report would help identify general problems and overall trends with regard to each program, as well as provide evidence of the level of conformance with the stated goals of the USF.

In order to ensure that the audits are meaningful and fair, the Commission must ensure that audits are limited only to requirements that are specific and unambiguous. Carriers must know before hand to what standards they will be held. Thus, audits should be limited only to Commission rules and published USAC policies and practices and should not include compliance with unpublished USAC administrative policies and practices. It is inequitable and

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<sup>101</sup> *Id.* at ¶ 71; *see also Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15813 ¶ 13.



unreasonable for carriers first to learn the scope of their compliance obligations as part of an audit rather than before any such audit.<sup>102</sup>

The Commission should also establish specific criteria for selecting the auditors. Auditors must be technically proficient in telecommunications products with a sufficient depth of accounting experience to conduct an efficient audit. Further, where USAC cannot accomplish these audits with their in-house auditing staff, competitive bidding would be the appropriate method for selecting auditors.

### **1. E-Rate beneficiary audits**

Although schools and libraries have been subject to audits to determine compliance with the program rules and requirements since the inception of the program, the existing program can be improved to meet the Commission's goals better and more efficiently. The Commission's rules require program beneficiaries and service providers to maintain records of their telecommunications purchases and to produce them at the request of an auditor.<sup>103</sup> Further, the Administrator is authorized to conduct audits of all beneficiaries and service providers, as well as contributors to the USF.<sup>104</sup> Audits are a tool for the Commission and USAC, as directed by the Commission, to ensure program integrity and to detect and deter waste, fraud, and abuse.<sup>105</sup>

The Commission's concept of adopting targeted independent audits of E-Rate recipients may have some merit.<sup>106</sup> These audits of E-Rate beneficiaries, however, must carefully

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<sup>102</sup> The same principle should be applied to E-Rate beneficiary audits.

<sup>103</sup> 47 C.F.R. § 54.516.

<sup>104</sup> *Id.*

<sup>105</sup> *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15813 ¶ 13.

<sup>106</sup> *USF Governance NPRM* at ¶ 71.

distinguish between intentional fraud and ministerial error.<sup>107</sup> Qwest looks forward to reviewing and commenting on any specific proposals for independent E-Rate recipient audits.

With regard to improving the current audit process,<sup>108</sup> Qwest believes that more focus should be given to auditor training. Qwest has experienced several instances in which a USAC E-Rate auditor has requested copies of service provider invoices from an applicant. These invoices are prepared by the service provider, not the applicant, and the applicant must in turn request copies from the service provider. Qwest and many other large service providers, however, have only electronic invoices that contain funding requests for multiple customers. Qwest is more than willing to help auditors get the documentation that they need, but it is simply not appropriate for Qwest to send to applicants these files with multiple instances of other customers' invoicing. Thus, auditors should be trained to better understand the constraints of the documentation requirements of the E-Rate program.

The Commission should also limit the number of audits each entity is subject to in a given period of time in order to avoid repetitious, burdensome, or inefficient audits. Specifically, absent a previous unacceptable audit, no single entity should be subject to an audit for the E-Rate program more than once every three years. Audits should be paid for out of the E-Rate fund.

## **2. Rural Health Care, Low Income, and High Cost beneficiary audits**

Qwest opposes any fixed dollar threshold for entities to be subject to Rural Health Care, Low-Income, and High-Cost program audits.<sup>109</sup> Audit selection should be related to the risk associated with USAC improperly awarding support, rather than the specific amount of support in question. Ensuring that all beneficiaries are potentially subject to audit will create an

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<sup>107</sup> *Id.* at ¶ 74.

<sup>108</sup> *Id.* at ¶ 75.

<sup>109</sup> *Id.* at ¶¶ 76-77.

incentive for all beneficiaries to comply with program requirements. Again, any such audits should be paid for by the particular fund as an overhead cost of the program.

Further, to the extent that all beneficiaries are subject to audit, the Commission must adopt other limits to ensure that the audits do not become overly burdensome. For example, no beneficiary should be audited for more than one program in a given year. Further, absent evidence of fraud or abuse in an audit, a beneficiary should not be subject to another audit on that program for a period of three years.

### **3. Contributor audits**

In addition to independent audits of USF program beneficiaries, the Commission should require independent audits of USF contributors.<sup>110</sup> In this regard, Qwest would not object to modeling the audits on the Single Audit Act, provided that the Commission sets unambiguous standards for the audits. As noted above, simple equity requires that audit criteria must be clear and defined well in advance of any audit. In this regard, parties that fail to comply with audit requirements should be prohibited from receiving USF monies only where there is evidence of fraud or abuse. Rule violations resulting from a misunderstanding of vague and ambiguous program rules or simple mistakes should not disqualify the party from receiving USF monies.

With regard to minimum financial thresholds, Qwest opposes adopting any flat contribution threshold for triggering an audit. There is no evidence that smaller contributors are somehow immune from waste, fraud or abuse. The Commission's proposed \$100 million threshold is clearly targeted at only the largest contributors and as such is inherently arbitrary and inequitable. This threshold would provide no deterrence for carriers contributing less than \$100 million. Qwest instead proposes that the Commission adopt a tiered approach. For example, a certain percentage of contributors with an obligation over \$50 million a year and

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<sup>110</sup> *Id.* at ¶ 80.

another percentage of contributors with an obligation of \$25 to \$50 million a year would be audited each year. The audit rates for each tier would be set at a level that the Commission believes will be sufficient to yield an accurate measure of carrier compliance. Carriers to be audited in each tier should be selected at random and each carrier would not be audited more than once every three years unless a prior audit has revealed unsatisfactory results.

**B. The Responsibility for the Recovery of Funds Must Rest With USAC**

The Commission should clarify that responsibility for the recovery of funds should rest with USAC, not program participants.<sup>111</sup> Qwest has experienced a number of cases in which USAC has disbursed to the wrong service provider Billed Entity Applicant Reimbursement (“BEAR”) funds to which Qwest was entitled. Rather than taking steps itself to correct the situation, USAC directed Qwest to recover the money directly from the other service provider. That service provider had already disbursed the BEAR payment to the applicant, making it virtually impossible for Qwest to recover the funds, and Commission rules should provide for such recovery by USAC. Recovery should have properly been handled by USAC. The Commission should amend its rules to provide for recovery by USAC.

Along similar lines, USAC should not be permitted to withhold payment on a service provider invoice based on rule violations by the applicant. A service provider has little ability to monitor whether an applicant will use its discounted services in a way that is consistent with eligibility requirements. It is fundamentally inequitable to require the service provider either to collect improper disbursements from the applicant, or to bear the loss of the disbursement amount if it is not able to obtain recovery from the applicant. USAC should instead pay the service provider invoice and subject the matter to the Commitment Adjustment (“COMAD”) process. Following this process will ensure that service providers are not subject to significant

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<sup>111</sup> *Id.* at ¶ 89.

delays in receiving payment for services rendered, while allowing the Schools and Libraries Division to recover any funds that the SLD ultimately determines the applicant used in violation of the rules.

**C. Any Measures the Commission Adopts to Deter Waste, Fraud, and Abuse in the High-Cost, Low-Income, and Rural Health Care Programs Must Be Designed to Avoid Additional Regulatory Burdens**

Additional rules to help deter waste, fraud and abuse in the High-Cost, Low-Income, and Rural Health Care programs must be carefully balanced to ensure they ultimately advance the goals of the program, rather than simply imposing additional regulatory burdens.<sup>112</sup> With regard to the state certification process for ETCs, additional regulation does not necessarily make sense for all ETCs. An ETC that is an incumbent local exchange carrier (“ILEC”) is already heavily regulated at the state level, often subject to rules governing issues such as held orders, service quality, and outage reporting. Consequently, additional regulation of an ILEC ETC may be redundant. For instance, the Commission’s requirement that an ETC submit a five-year service quality improvement plan<sup>113</sup> simply does not make sense where an ILEC ETC is using universal service funds to maintain service quality in high-cost areas, or using the USF monies to reduce intrastate rates. In these contexts, the additional regulatory burdens clearly outweigh any perceived deterrence for waste, fraud, and abuse.

With regard to the Low-Income program, the Commission’s current rules and documentation requirements are sufficient to deter waste, fraud, and abuse. To the extent the Commission believes that additional safeguards are required, however, Qwest urges the Commission to do nothing that constrains or burdens the enrollment process for consumers. Additional administrative burdens may slow the enrollment process, resulting in eligible persons

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<sup>112</sup> *Id.* at ¶¶ 92-94.

<sup>113</sup> *See* 47 C.F.R. §§ 54.202, 54.209.

becoming reluctant to participate in Lifeline and Link-Up. The best way to ensure that only eligible subscribers participate in these programs is automatic enrollment through the relevant social service agencies. Social service agencies, rather than carriers, should be responsible for gathering eligibility information from customers.<sup>114</sup> For now, however, the current rules are sufficient to deter waste, fraud, and abuse.

Further, the Commission should not place additional burdens upon carriers to verify that tribal customers enrolled in the Lifeline and Link-Up programs are in fact tribal members and reside on tribal lands. Carriers simply cannot be in the position of policing their customers in this manner. Further, creating additional informational requirements may dissuade tribal members from ever participating in the Lifeline and Link-Up programs. Tribal agencies, rather than carriers, should interface with customers to gather the necessary data.

With regard to the Rural Health Care program, there is no evidence that additional measures are required to deter waste, fraud, and abuse. Nevertheless, there are steps that the Commission can take to improve the efficiency of the program. As part of the application process, a Rural Health Care provider (“RHCP”) should be required to establish a technology plan and certify to USAC that it has such a plan and that the transport and Internet capacity funded with USF monies is reasonable based upon internal demand forecasts. This process would help ensure that the RHCP’s telecommunications and Internet needs have been analyzed and that demands upon the Rural Health Care funds that exceed the plan are justified. Also, such a plan would give USAC auditors a base line for analyzing whether USF monies are being used efficiently and have not been spent on “gold plating.”

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<sup>114</sup> See text *supra* at section II.C.2.c.

## **CONCLUSION**

Qwest urges the Commission to implement changes to the universal service programs consistent with these comments.

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October 18, 2005

## CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.** to be 1) filed with the FCC via its Electronic Comment Filing System, 2) served, via email on Mr. Warren Firschein, Access Policy Division, Wireline Competition Bureau, Federal Communications Commission at [warren.firschein@fcc.gov](mailto:warren.firschein@fcc.gov), 3) served, via email on Ms. Mika Savir, Access Policy Division, Wireline Competition Bureau, Federal Communications Commission at [mika.savir@fcc.gov](mailto:mika.savir@fcc.gov), and 4) served, via email on the FCC's duplicating contractor Best Copy and Printing, Inc. at [FCC@bcpiweb.com](mailto:FCC@bcpiweb.com).

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